

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PHUOC TRAN,

Case No.: 2:23-cv-00867-APG-DJA

Plaintiff

## Order Regarding Service

V.

STATE OF NEVADA and CLARK  
COUNTY DISTRICT ATTORNEY'S  
OFFICE,

## Defendants

9 On September 12, 2023, plaintiff Phuoc Tran was advised by the court that his complaint  
10 against defendants State of Nevada and Clark County District Attorney's Office would be  
11 dismissed without prejudice unless by October 12, 2023, Tran either filed proper proof of service  
12 or showed good cause why such service was not timely made. Tran has failed to do so. Tran  
13 filed a document showing that he sent, by certified mail, a copy of a portion of a Federal Rule of  
14 Civil Procedure 4 waiver of service request. ECF No. 14. That is not sufficient to satisfy the  
15 service requirements of Rule 4(c). First, it does not appear to be a complete copy of the waiver  
16 request form appended to Rule 4. *See* Rule 4(d)(1). Second, it does not appear to include the  
17 items required under Rule 4(d). And even if the waiver form is correct and complete, the  
18 defendants apparently did not respond to it, so it is Tran's obligation to serve as required under  
19 Rule 4(c). Attempts to serve a summons and complaint by certified mail are deficient under both  
20 federal and Nevada law because both require personal service. *See* Fed. R. Civ. P. 4(j), (e); Nev.  
21 R. Civ. P. 4(d). When service of process occurs within the United States, proof of service must  
22 be made to the court by the server's affidavit. Fed. R. Civ. P. 4(l)(1). A certified return receipt  
23 does not qualify as a server's affidavit.

1 In recognition of Tran's pro se status, I will give Tran 30 more days to effect service on  
2 the defendants as required under Rule 4. If Tran fails to file proof of proper service by  
3 November 14, 2023, I will dismiss this case without prejudice.

4 DATED this 13th day of October, 2023.

5   
6 ANDREW P. GORDON  
7 UNITED STATES DISTRICT JUDGE

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